

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

THOMAS DAVIS §
§
V. § CIVIL ACTION NO. G-13-242
§
DYNAMIC OFFSHORE RESOURCES, §
LLC., et al. §

ORDER ADOPTING
REPORT AND RECOMMENDATION

In a Report and Recommendation dated December 15, 2014, Magistrate Judge Froeschner recommended that the Motion for Summary Judgment of Defendant, Dynamic Offshore Resources, LLC, be granted and that all claims asserted against Dynamic by Plaintiff, Thomas Davis, be dismissed. Davis filed timely objections to the Report and Recommendation. In addition, Defendants, Shamrock Management and Wood Group USA, who were not participants in Dynamic's Motion, filed objections to various findings related to their employee's actions they perceived to have been made by Judge Froeschner. Finally, Dynamic filed a response to all of the objections. The matter, therefore, became ripe for review.

As required by 28 U.S.C. § 636(b)(1)(C), this Court has completed a *de novo* review of this matter and concurs with Judge Froeschner's findings, under the applicable Louisiana law, that Davis was an independent contractor and Dynamic did not maintain sufficient operational control over his work to otherwise expose it to liability; that Davis was not Dynamic's statutory employee; and that Dynamic was not vicariously liable for

the negligence, if any, of employees of Shamrock or Wood Group under the borrowed servant doctrine. The Court, therefore, accepts Judge Froeschner's recommendations.

This Court further finds that Judge Froeschner's findings are adopted only for purposes of resolving Dynamic's Motion based upon the summary judgment evidence submitted and without prejudice to any defenses to be asserted by Shamrock and Wood Group against Davis.

Accordingly, it is **ORDERED** and **ADJUDGED** that:

- 1) the “Objections” (Instrument no. 57) of Plaintiff, Thomas Davis, are **OVERRULED**;
 - 2) the “Objections” (Instrument no. 56) of Shamrock Management and Wood Group USA are **OVERRULED**, as surplusage;
 - 3) the Report and Recommendation (Instrument no. 55) of Magistrate Judge Froeschner is **ACCEPTED** and **ADOPTED** by this Court;
 - 4) the Motion for Summary Judgment (Instrument no. 46) of Defendant, Dynamic Offshore Resources, LLC, is **GRANTED**; and
 - 5) all claims asserted against Dynamic Offshore Resources, LLC, by Plaintiff, Thomas Davis, are **DISMISSED with prejudice**.

DONE at Galveston, Texas, this 22nd day of January, 2015.

~~Gregg Costa~~
United States Circuit Judge
(Sitting by Designation)